

Call to Order:

The meeting was called to order at 7:30 p.m. Present were Chair Joan Duff, members Vincent Chiozzi, Jay Doherty, Zach Bergeron and associate member Ann Knowles; also present were Paul Materazzo, Director of Planning and Jacki Byerley, Planner.

Warrant Articles 2014 Town Meeting:**Medical Marijuana Overlay District:**

Ms. Duff opened the continued public hearing on the proposed warrant articles to add Section 8.9 (Medical Marijuana Overlay District (MMOD)) and to amend Section 2.2 (Overlay Districts) by adding at the end of Section 2.2, "Medical Marijuana Overlay District" and amend the Town of Andover Zoning Map, to establish a Medical Marijuana Overlay District.

Mr. Materazzo reminded the Board that at their last meeting they discussed the three locations. The Town Manager would like the public to vote on each of the locations. The working group has deemed all the three locations to be acceptable from a response, enforcement and regulating standpoint. The Board can now decide if they want to recommend disapproval of any of the locations to the Selectmen. The Selectmen have approved the zoning language, but have chosen to wait on voting on the locations until the Planning Board makes their vote.

Mr. Doherty stated that in his opinion, the Town doesn't need more than one area. He asked if the Police Chief preferred River Road. Mr. Materazzo answered that Lowell Junction Road is the Police Chief's 3rd location in order based only on a response standpoint. Lowell Junction Road wouldn't be offered as a location at all if he was uncomfortable with it. Mr. Doherty asked what Wilmington was going to do and offered that they may be able to piggy-back Lowell Junction. Mr. Materazzo answered that both Wilmington and Tewksbury will place their zones on the Andover borders, like their adult use districts.

Mr. Chiozzi felt that they should choose the best area based on a public safety standpoint. He added that the Town does not need more than one location unless it is to meet the intent of the law. Ms. Knowles felt that they should choose at least two locations for Town Meeting in case one does not pass. Ms. Duff added if three areas are offered she expects at least one to pass.

Mr. Materazzo stated that each location has enough acreage in order to qualify according to the Attorney General. The Attorney General will only look into the land area if someone tries to open a business and physically cannot, based on the chosen area. However, the acreages of all three areas are large. Mr. Chiozzi asked if they can get an opinion on the areas from the Attorney General now. Mr. Materazzo stated that they will only look at the zoning language.

Ms. Knowles asked Mr. Materazzo to explain the amendment to the Lowell Junction Road map. Mr. Materazzo stated that the Selectmen suggested the Lowell Junction Road map be scaled back away from the residences on River Street. An amended map was provided and any consideration of Lowell Junction Road should be based on the amended map. Ms. Knowles asked if this was changed because people have approached the Selectmen. Mr. Materazzo stated that no one had approached him; the Selectmen wanted an additional buffer from a residential area.

Medical Marijuana Overlay District (cont'd):

Mr. Chiozzi added that the Board can withdraw the other locations if the first area passes. Mr. Bergeron asked if it was the intent of the Board to withdraw areas. Mr. Chiozzi stated that they could continue to discuss that until Town Meeting. Mr. Materazzo recommended that the Board vote on this tonight so that the vote would be included in the Finance Committee book.

Mr. Doherty stated that Lowell Junction is an ideal spot, but he is torn by the Chief's opinion that it is the least desirable of areas. Ms. Duff offered that the Chief only pointed out that it is the farthest away for a response time. Mr. Materazzo stated that if the Chief didn't support that area it would not be an option. These three locations were narrowed down from many other options.

Mr. Chiozzi stated that he does not have a problem approving all three areas, but he does not think all three are needed. Mr. Materazzo suggested that the Planning Board liaison for these articles at Town Meeting reach out to the liaison from the Board of Selectmen to discuss what the approach should be. From a staff and working group perspective all three of these locations are acceptable.

Alix Driscoll of 11 Forest Lane stated that the Conservation Commission was interested in purchasing land on Lowell Junction Road across from Pfizer and asked if the overlay included that parcel. Mr. Materazzo informed her that the parcel she is interested in is not part of the overlay.

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to recommend approval of Article 34 Medical Marijuana Overlay District. **Vote:** Unanimous (5-0).

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to recommend approval of Article 36 River Road. **Vote:** Unanimous (5-0).

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to recommend approval of Article 37 Lowell Junction Road as amended per plan prepared by Town of Andover dated April 1, 2014. **Vote:** Unanimous (5-0).

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to recommend approval of Article 38 Dascomb Road. **Vote:** Ms. Duff, Mr. Chiozzi, Mr. Bergeron and Ms. Knowles voting yes; and Mr. Doherty voting no. (4-1)

Other Town Meeting Articles:

Mr. Materazzo explained to the Board that pursuant to the Town Charter, for bond council, the Planning Board must provide an advisory referral on all matters over \$100,000. He provided the Board a memo listing such articles and recommended that unless the Board wanted further information on any of the articles that they vote to take no action on these articles.

Mr. Doherty asked if the school maintenance article was similar to the driveway project at the Doherty School. Mr. Materazzo stated that the article is not specific to a building but it may be something like that. He offered that if they wanted to dig deeper on the article, he could get a representative from Plant and Facilities to come and speak to the article. He added that typically

Other Town Meeting Articles (cont'd):

the Board has not opined on these types of articles. Ms. Knowles asked if any of the listed articles support the Master Plan initiatives. Ms. Byerley stated that Planning staff has identified certain such articles that warrant further discussion, and they will be on the April 22nd agenda.

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board voted to take no action on the warrant articles listed in Mr. Materazzo's memo dated March 24, 2014. **Vote:** Unanimous (5-0).

Medical Marijuana Moratorium:

Ms. Duff opened the public hearing on the proposed warrant article to amend Section 8 (Special District Regulations) by adding Section 8.9 (Medical Marijuana Treatment Center), in order to allow time to make the appropriate amendments to the Zoning Bylaw to allow the use of Medical Marijuana Treatment Center.

Mr. Materazzo explained that this is a tool to give the Town more time should the zoning language and/or maps for the Medical Marijuana Overlay District not pass. The Attorney General is only allowing moratoriums to run through October 2014. A Special Town Meeting would then be held to revisit this matter.

Mr. Bergeron asked what would happen if the overlay district passes but the locations do not. Mr. Materazzo stated that the Town should also vote for the moratorium in case the locations do not pass. The Board discussed the order of the articles and agreed that the moratorium article should have been placed after the overlay and the location articles. Mr. Chiozzi stated that on the floor of Town Meeting they can ask to take the articles out of order but it would require a vote. The Board discussed the logistics of taking an article out of order.

Mr. Materazzo stated that from a staff perspective, the Board should recommend approval of this article. The Board discussed if a note could be put in the Finance Committee book stating that this article should only be passed if the other articles do not. It was decided that it would be best to be explained on the floor of Town Meeting.

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board voted to recommend approval of Warrant Article 35, Medical Marijuana Moratorium. **Vote:** Unanimous (5-0).

Parking Assessment CIP Request:

Mr. Materazzo stated that as part of Article 46, the Town Manager and Public Safety officer are looking to work with the Economic Development Council and the Planning staff to implement this parking study. He reviewed a memo from Senior Planner Lisa Schwarz which explained that this would be used to assess the existing parking stock, review enforcement and develop a long term strategy for parking in the downtown to set the table for future growth. This is a critical piece to make the downtown more business friendly. This type of study is usually in excess of \$70,000, but staff has already gathered a lot of the data. The cost is for the review of this data by a parking expert.

Mr. Bergeron asked if the Town data is relatively current. Ms. Byerley stated that they have the data on the number of on-street and municipal lot spaces the Town has on file, and over the next

Parking Assessment CIP Request (cont'd):

two months they will be refining the amount of time allotted to each parking space through a survey. Ms. Duff stated that it is important to note that staff has already done a bulk of the work.

Ms. Byerley explained that this article is being put forth by the Chief of Police to show that everyone is trying to work together to get this assessment completed. Mr. Materazzo added that the money for this will be taken from receipts collected from the parking meters. Mr. Chiozzi noted that there are other items in the article in addition to the parking assessment. He asked if the Board is being asked to support the entire article. Mr. Materazzo explained that they have to take action on the entire article, not just one part of it. Ms. Duff felt that to go through the whole process and to not take the next step does not make sense. Mr. Materazzo added that the whole article supports the Town's Master Plan initiative on parking.

Mr. Chiozzi stated that he is comfortable supporting the parking study because it is a planning function, however he doesn't feel comfortable voting on how other money should be spent. Mr. Materazzo noted that other items in the article do relate to the parking assessment. Ms. Knowles stated that she felt the other items in the article were beyond the Planning Board's purview.

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to take no action on Article 46 the Off-Street Parking Program. **Vote:** Unanimous (5-0).

165 Haverhill Street – Merrimack Valley YMCA:

Ms. Duff opened the public meeting on the request from Merrimack Valley YMCA for a minor modification to their Special Permit for Major Non-Residential project.

Rick Feldman of Feldman Development Partners representing the applicant explained that they are requesting a minor modification to their permit in order to reduce the size of the addition by 3,200 s.f. and shift the building 15 ft away from the property line. They will also be shifting the entrance 16 ft to the east, eliminating two dumpsters and reducing the parking by nine spaces. Ms. Byerley asked Mr. Feldman to explain the walkway that will be provided. Mr. Feldman stated that the walkway will be moving closer to the new entrance for better drop-offs and a new landscape buffer will be created on the east side.

Ms. Byerley stated that the plans were distributed to DPW, the Health Department and the Fire Department for review. The parking lot entrance and exit and the driving circulation have not changed. The lot lines are not changing and the footprints are being reduced. Section 18 of the Special Permit Regulations allows changes in the plans that are deemed by the Board to be minor in nature which are in compliance with the zoning bylaw following a presentation to the Planning Board. The area and setback regulations are still being met and are made better with this modification and the required number of parking spaces is still exceeded. The Board must decide if this modification is minor, and if so, if they approve the redesign.

Mr. Bergeron asked what the square footage lost of the entire building is and Mr. Feldman told him it is 1,842 s.f. Ms. Knowles asked if the modification was a result of a discussion with the neighbors. Mr. Feldman answered that it was a result of taking stock of their fundraising efforts and what they could actually afford to do with the addition.

165 Haverhill Street – Merrimack Valley YMCA:

On a motion by Mr. Bergeron seconded by Mr. Doherty the Board determined that the request submitted by Merrimack Valley YMCA is a minor modification because it does not change the scope and nature of the original permit and cause the project to be non-compliant with the zoning bylaw. **Vote:** Unanimous (5-0).

On a motion by Mr. Bergeron seconded by Mr. Doherty the Board approved the modification for reduction of building size by 3,200 sf, the reduction of parking spaces to 373, the change to the parking lot layout and walkway to the main entrance as shown on the plans Andover/North Andover YMCA Expansion Project prepared by Marchionda & Associates, L.P. last revised March 3, 2014. This approval will modify condition 2 of Special Permit 13-12 with all other conditions of approval in full force and affect. **Vote:** Unanimous (5-0).

Warrant Articles 2014 Town Meeting:**Transfer of Open Space Land Acquisition Bonding Appropriations:**

Bob Douglas, Director of Conservation stated that as part of the Master Plan, the Conservation Commission has identified several desirable properties in Town that should they ever come for sale, the Commission would be interested in acquiring. This warrant article is to set aside money to be held in a bond fund so that they can negotiate for these properties without having to first go to Town Meeting.

Al French of 17 Moreland Avenue stated that Andover has benefitted in years past from the ability to set aside money in a bond fund without identifying properties. The Town regularly kept money in a revolving fund and often they were able to get state funds. The majority of open space reservations were acquired by this method. About ten years ago Town Meeting voters decided to request specifically what land would be purchased and the fund has gone almost down to zero. The tax rate would not get hit until the real estate transaction takes place. The Reichhold property may have been lost because it took 3-4 years to come to terms. When the Reichhold property was lost, the state funding was also lost.

Alix Driscoll of 11 Forest Lane, a member of the Conservation Commission and AVIS stated that they wanted to keep the \$800,000 available that is left over from the lost Reichhold deal that was appropriated in 2001. They are specifically targeting properties along the river and parcels adjacent to land already owned by either the Conservation Commission or AVIS.

Mr. Bergeron asked what would happen to the \$800,000 if this article did not pass. Ms. Driscoll answered that the article is to transfer the money, not to rescind it. It is up to Town Meeting vote to decide what to do with the money. Mr. Bergeron asked if this would allow them to pursue properties in a timely fashion. Mr. French stated it would help them purchase these identified properties. Ms. Knowles asked if these properties had been noted in the Master Plan and Open Space Plan. Ms. Driscoll stated not these lands specifically, but land along the River.

Mr. Chiozzi pointed out that the Planning Board does not usually get involved in the money part of anything. Ms. Driscoll stated that they are asking for support as the Planning Board has supported Reichhold and other open space. Mr. Douglas added that it would be appropriate for

Transfer of Open Space Land Acquisition Bonding Appropriations (cont'd):

the Board to support the acquisition of open space. Ms. Byerley informed the Board that the Conservation Commission does not purchase any land without the approval of the Board of Selectmen. Mr. Doherty pointed out that when the money was first appropriated in 2001, it was a much better economy. Ms. Byerley reminded the Board that the Conservation Commission has identified a specific list of properties for this money. Mr. Douglas gave a description of some of the properties and pointed them out on a Town map. Ms. Byerley asked if the properties could be used for recreation and Mr. French said that they could be used for passive recreation. He described this as seed money and added that the Town could also pursue state funding for these properties.

Mr. Chiozzi asked what the long term plan was and if they anticipated coming for more money at every Town Meeting. Mr. Douglas stated that it had not been discussed. Mr. French added that open space is a long term asset and property values are affected by the quality of recreation and open space. He also added that parcels that are purchased are usually bonded over twenty years. Ms. Driscoll pointed out that the Master Plan talks about the protection of the River.

Mr. Bergeron asked if they were looking at this as a long term kitty. Mr. French stated that they would like to keep the bond fund as a revolving account. Ms. Byerley pointed out that people may ask if the goal is to always keep a set amount in the account. She reminded the Board that in the past they have supported open space acquisition but have taken no support of money. Ms. Knowles and Ms. Duff both acknowledged that they value open space and the Town needs to have negotiating power.

Mr. Doherty asked why the Finance Committee recommended disapproval of this article. Mr. Douglas stated that he was unaware of that vote so he could not speak to it.

On a motion by Mr. Bergeron seconded by Mr. Chiozzi the Board moved to approve the article in regards to the open space but to take no action on the article on the dollar amount.

Vote: Ms. Duff, Mr. Chiozzi, Mr. Bergeron and Ms. Knowles voting yes; and Mr. Doherty voting no. (4-1)

Mobile Food Vendor Bylaw:

Ms. Duff opened the public meeting that was continued from February 11, 2014 on the proposed Mobile Food Vendor Bylaw.

Ms. Byerley reminded the Board that this article would authorize the Board of Selectmen to set regulations and fees but it does not require them to do so. Regulations are not currently written and they will not be written until she is directed to do so by the Board of Selectmen.

Mr. Bergeron asked why the Board of Selectmen did not vote unanimously to support this article. Ms. Byerley explained that two of the Selectmen did not feel that it was necessary to have the ability to set regulations at any time.

Nadine Levine, a resident of North Andover and the proprietor of the mobile food truck Pipe Dream Cupcakes asked if there would be a committee to write the regulations if this were to

Mobile Food Vendor Bylaw (cont'd):

pass. Ms. Byerley explained that it would be up to the Board of Selectmen to decide if they wanted a committee formed, but there would be public hearings on the regulations.

On a motion by Mr. Chiozzi, seconded by Mr. Bergeron the Board recommended favorable action at Town Meeting for the Mobile Food Vendor Bylaw. **Vote:** Unanimous (5-0).

Fraser Drive:

Ms. Byerley informed the Board that Fraser Drive is a recently approved subdivision that pursuant to their approval must prepare Homeowner's Association documents for the Board to approve. The applicant has used the Town's template to prepare these documents and they have been reviewed by both the Town Engineer and Town Counsel.

On a motion by Mr. Bergeron seconded by Mr. Doherty the Board approved the Declaration of Fraser Drive Homeowner's Association as submitted. **Vote:** Unanimous (5-0).

Trinity Court:

Ms. Byerley informed the Board that the development of Trinity Court was approved in 2013 with a waiver to construct a sidewalk. The Town Engineer has determined the amount of \$10,041.73 to be placed in the Town's sidewalk account and the developer has agreed to this. The Board must now vote if they are in agreement with this amount.

Mr. Doherty asked if this money was put in a special account and Ms. Byerley told him that it was to be put in an account for the repair and replacements for sidewalks around Town.

On a motion by Mr. Bergeron seconded by Mr. Doherty the Board set the funds to be deposited into a Town account by the developer of Trinity Court in the amount of \$10,041.73. **Vote:** Unanimous (5-0).

Adjournment: The meeting was adjourned at 8:52 p.m.